

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTOLIN MARKS,
Plaintiff,

v.

JACK BENNETT,
Defendant.

Case No. C07-5674RBL/JKA

ORDER UNSEALING AND
DENYING TWO MOTIONS

This 42 U.S.C. § 1983 Bivens action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Mr. Marks now litigates under sanctions as a result of improper filings. As part of those sanctions, documents filed by Mr. Marks are submitted under seal for court review. Mr. Marks has filed two documents since entry of the last order (Dkt. # 22, and 25). Mr. Marks filed a response to a motion to dismiss and then filed another document asking the court to take "judicial notice" of certain facts. Mr. Marks last filing was made after defendant had filed a reply. Dkt. # 22 is now **UNSEALED**.

The court summarily **DENIES** the plaintiff's motion. The local rules of this court allow for a motion, a response, and a reply. See, Local Rule 7. As the non moving party, plaintiff does not

1 have an opportunity to present additional argument and evidence after a reply has been filed.
2 Further, on a June 23, 2008, the court converted defendant's motion to dismiss, (Dkt. # 17), to a
3 motion for summary judgment (Dkt # 24). Both parties will now have an opportunity to file
4 additional briefing. Plaintiff may file additional argument under that order. This gives defendant
5 Bennett the opportunity to file a reply to plaintiff's arguments.

6 Dkt. # 22 will remain in the file but may not be cited to by either party and will not be
7 considered by the court.

8 Plaintiff's next filing, (Dkt. # 25), is a motion asking for a copy of Dkt. # 19. In a June 23,
9 2008, order the court stated "Further, the court has converted defendant's motion to dismiss, (Dkt. #
10 19), to a motion for summary judgment." Dkt. # 19 is plaintiff's response to a motion to dismiss.
11 Dkt. # 17 is the motion to dismiss that was converted. The court apologizes for the confusion this
12 typographical error caused plaintiff.

13 Dkt. # 25 is now **UNSEALED**. The motion for a copy of Dkt. # 19 is **DENIED**. Plaintiff
14 may obtain copies by contacting the clerk's office and paying the appropriate fee.

15 The Clerk of Court is directed to send a copy of this Order to plaintiff and to counsel for
16 defendant(s).

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18 DATED this 21 day of July, 2008.

19 /S/ J. Kelley Arnold
20 J. Kelley Arnold
21 United States Magistrate Judge
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